

# **Exhibit C**

## **Deposition of Gary Lindsey**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

PRISON LEGAL NEWS, )  
Plaintiff, )  
VS. ) CIVIL ACTION NO.  
GARY LINDSEY, et al. ) 3:07-CV-0367-P  
Defendants. )

**CERTIFIED COPY**

DEPOSITION OF  
GARY M. LINDSEY  
DALLAS, TEXAS  
AUGUST 2, 2007

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REPORTED BY: DAWN A. TOOKE, CSR NO. 7319  
FILE NO.: A105FA2

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF TEXAS  
3                   DALLAS DIVISION

3   PRISON LEGAL NEWS,                   )  
4       Plaintiff,                        )  
5   VS.                                    )   CIVIL ACTION NO.  
6   )   3:07-CV-0367-P  
7   GARY LINDSEY, et al.                 )  
8       Defendants.                        )

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15       Deposition of GARY M. LINDSEY, taken on behalf of  
16   Plaintiff, at the Office of the District Attorney, 133  
17   North Industrial Boulevard, 11th Floor, Dallas, Texas,  
18   commencing at 1:08 p.m., Thursday, August 2, 2007, before  
19   Dawn A. Tooke, CSR No. 7319.  
20  
21  
22  
23  
24  
25

A P P E A R A N C E S

FOR THE PLAINTIFF:

Mr. Scott Medlock  
TEXAS CIVIL RIGHTS PROJECT  
1405 Montopolis Drive  
Austin, Texas 78741-3438  
(512) 474-5073

FOR THE DEFENDANTS:

Ms. Dolena T. Westergard  
OFFICE OF THE DISTRICT ATTORNEY  
Federal Section  
133 North Industrial Boulevard  
LB 19  
Dallas, Texas 75207-4399  
(214) 653-3692

ALSO PRESENT:

Mr. Ian Pisarcik

1           A.       They were acting -- I'm not sure that they could  
2 act on behalf of Dallas County. They were acting on  
3 behalf of the sheriff because that's who they were  
4 actually working for, so I'm not sure that they could be  
5 acting on behalf of Dallas County, per se, but they were  
6 acting on behalf of the sheriff.

7           Q.       But they were enforcing a policy of Dallas  
8 County?

9           A.       Well --

10          Q.       Of the sheriff's office?

11          A.       Of the sheriff's department of Dallas County,  
12 yes.

13          Q.       And we're not sure how, say, the staff in the  
14 mailroom were informed of the new policy, correct?

15          A.       No, I'm not.

16          Q.       Okay. But from this e-mail marked as -- I  
17 believe as Exhibit 2, we know that the policy came into  
18 force on March the 17th, 2006, correct?

19          A.       I believe that's what the e-mail says, if that's  
20 what it says.

21          Q.       You have no reason to believe that it started  
22 being enforced earlier or later than that date?

23          A.       No, I do not.

24          Q.       Okay. Now, the memo that's marked as Exhibit 4  
25 discusses the reasons why the policy was issued, correct?

1 that goal by banning publications?

2 A. No. I think that you're looking at two  
3 different issues here. What was communicated to us and  
4 one of the issues they had -- specifically what they were  
5 talking about was fire-loading material because we don't  
6 allow smoking. They don't have lighters. The issue they  
7 had was the amount of paper, newspapers that were allowed  
8 to accumulate in there that they felt constituted a fire  
9 hazard in the cells.

10 Q. But the communication there doesn't specifically  
11 mention newspapers or publications, correct?

12 A. No, it does not.

13 Q. Okay. And there are other ways to control fire  
14 hazards, correct? You mentioned that inmates aren't  
15 allowed to smoke or have lighters.

16 A. Yes.

17 Q. And, like, for example, Dallas County could have  
18 controlled the amount of publications that an inmate had.  
19 They could limit him to, say, five magazines, correct?

20 A. Well, they could. I think you run into staffing  
21 issues and other issues that you would have to try to  
22 limit that. We did not feel that that was the appropriate  
23 solution because it still -- regardless -- because there  
24 was no way to contain those things. You still had a fire  
25 hazard.

1 Q. But if there was -- Dallas County does limit the  
2 amount of material that inmates can have in their cell,  
3 correct?

4 A. We do now, yes.

5 Q. And at the time when the 2006 policy was issued,  
6 the -- there was a policy requiring inmates to keep their  
7 cells clean and tidy, correct?

8 A. Yes.

9 Q. And there was a rule that prevented inmates from  
10 placing paper over cell bars, doors, light fixtures and  
11 air vents, correct?

12 A. Yes.

13 Q. And enforcing those policies would have  
14 prevented fire hazards, correct?

15 A. Yes.

16 Q. And inmates were allowed to have other flammable  
17 materials in their cells like a Bible, correct?

18 A. Yes.

19 Q. And they could have soft-back books, correct?

20 A. Yes.

21 Q. And they could have writing paper, correct?

22 A. Yes.

23 Q. And they could have toilet paper?

24 A. Uh-huh.

25 Q. And all of these materials we've just discussed

1 A. (Witness complies.) Okay.

2 Q. You don't find anything in there objectionable  
3 on security grounds at the jail, do you?

4 A. Not on first glance, no.

5 Q. And you don't have any reason to believe that  
6 there's anything objectionable in there?

7 A. No, I don't.

8 Q. And, to your knowledge, the publication -- my  
9 client's publication has never caused any sort of problem  
10 at the jail?

11 A. I'm not aware of any, no.

12 Q. Okay. But during the implementation of the  
13 March 2006 policy, inmates couldn't access my client's  
14 publication, correct?

15 A. I'm not sure I can really answer that question.  
16 I'm not sure whether it was cut off in May or March of  
17 2006 or not.

18 Q. Assuming that the policy was enforced beginning  
19 on March 17, 2006, would inmates in the jail have been  
20 able to access my client's publication while the policy  
21 was in force?

22 A. If that was being enforced at that time. You  
23 know, the policy went in -- to go back and specifically  
24 say that that publication was excluded, I can't answer  
25 that. I don't know.



1 publisher's attorneys were notified or not, I do not know,  
2 but I think there were issues that were raised about,  
3 specifically, the "Prison Legal News" that made us look at  
4 that policy again, plus putting in property boxes inside  
5 the cells where we could limit the amount of material that  
6 an inmate was allowed to accumulate.

7 Q. When were the property boxes put in?

8 A. It would have been some time in the spring. I  
9 don't have an exact date.

10 Q. Spring of this year?

11 A. Yes.

12 Q. Do you know if it was -- if that limitation was  
13 put in before or after this lawsuit was filed?

14 A. I'm not sure of the file date on the lawsuit. I  
15 think the property boxes were probably put in prior to the  
16 filing of the lawsuit.

17 Q. Okay. And the -- just to be clear, the property  
18 boxes limit the amount of stuff that an inmate can keep in  
19 their cell?

20 A. Yes.

21 Q. So the inmate could keep however much stuff they  
22 wanted as long as it just fit in that property box?

23 A. Yes.

24 Q. So they could fill the entire thing up with  
25 "Prison Legal News" or they could fill it all up with

1 whatever other material they're allowed to have?

2 A. Yes.

3 Q. Okay. Do you believe the policy was changed  
4 because of this litigation?

5 A. No.

6 Q. No. Why was the policy changed, to your  
7 understanding?

8 A. Well, I think -- to be more specific as to  
9 exactly which policy we're talking about, if we're talking  
10 about back in March or May, no, it was done as a result of  
11 the Department of Justice. We changed some of the policy,  
12 too, because of the insulation in the property boxes. We  
13 had another alternative to control some of the fire  
14 material up in the jails.

15 Q. Okay. And the policy could change back,  
16 correct?

17 A. The policy could change back if the Department  
18 of Justice or the jail commission came through and said,  
19 This is not satisfactory on what you're doing, we could be  
20 forced to change the policy again, yes.

21 Q. Now, you said the Department of Justice forced  
22 you to change the policy.

23 A. No. I didn't say that they --

24 Q. They could force.

25 A. They could force the changes.

1 MR. MEDLOCK: Okay. Okay.

2 Q. Real quick, just a few more questions. As a  
3 jailer, you know that it's important to keep prisoners  
4 occupied while they're in the jail, correct?

5 A. Yes.

6 Q. And reading is a good way to keep prisoners  
7 occupied, correct?

8 A. Yes.

9 Q. And sometimes reading can even help rehabilitate  
10 an inmate, correct?

11 A. Well, assuming whatever it is they're reading,  
12 yes.

13 Q. Assuming they're reading -- assuming they're not  
14 reading pornography, for example, that would be --

15 A. It could, yes.

16 MR. MEDLOCK: Okay. Thank you, Chief. I'm  
17 going to pass the witness at this point.

18 MS. WESTERGARD: I have no questions, but I  
19 would like to make a few statements about what we'd get  
20 for you today based upon -- the Chief made reference to a  
21 correspondence plan approved by the jail commission. I  
22 don't think -- we will provide you that, for what it's  
23 worth. He's going to look for the dates of -- some kind  
24 of indication of when the property boxes were received.

25 MR. MEDLOCK: Okay.

REPORTER'S CERTIFICATE

I, DAWN A. TOOKE, CSR No. 7319, Certified  
Shorthand Reporter, certify;

That the foregoing proceedings were taken  
before me at the time and place therein set forth, at  
which time the witness was put under oath by me;

That the testimony of the witness, the  
questions propounded, and all objections and  
statements made at the time of the examination were  
recorded stenographically by me and was thereafter  
transcribed;

That the foregoing is a true and correct  
transcript of my shorthand notes so taken.


I further certify that I am not a relative or  
employee of any attorney of the parties, nor  
financially interested in the action.

I declare under penalty of perjury under the  
laws of Texas that the foregoing is true and correct.

Dated this 13th day of August,  
2007.

Signature Reserved

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